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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,418	11/06/2003	David J. Socha JR.	MTU-20902/01	8355

7590 07/27/2004

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/702,418

Applicant(s)

SOCHA ET AL.

Examiner

Joseph F Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/01/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: "4,869,559" (page 2, line 9) should read "4,869,552".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7-15, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,539,919 to Meek, Jr. et al. in view of U.S. Patent No. 3,708,202 to Barecki et al.

Meek et al. disclose a nesting chair that is basically the same as that recited in claims 1-5, 7-15, and 17-19 except that the chair lacks at least one transverse member, a seat cushion, and a seat back, as recited in the claims. See Figures 1-5 of Meek et al. for the teaching that the nesting chair has a self supporting seat base (Fig. 1) including first and second leg members 11, 12 (Fig. 1) each having a front leg portion 11L, 12L (Fig. 1), a rear leg portion 11R, 12R (Fig. 1), and an inwardly bent horizontal portion 11B, 12B (Fig. 3) with a rear section, a central region, and a front section; and a

Art Unit: 3636

generally L-shaped back support bracket 13 (Fig. 1) with a first generally horizontal end and a second vertical end wherein the portions of the first and second leg members are unitary, symmetrical pieces of tubing arranged on opposite sides of a central plane and the central regions of the horizontal portion being the closest to the central plane with the front and rear sections angling outwardly away from the central plane. Barecki et al. show a nesting chair similar to that of Meek et al. wherein the nesting chair has a seat base 24,28a (Fig. 1) with leg members including front leg 25 (Fig. 1), rear leg (Fig. 1), and horizontal portions 25a (Fig. 1), a back support 28 (Fig. 1), a seat cushion 22 (Fig. 1) supported by the seat base, a seat back 21 (Fig. 1) connected to the back support, and a pair of transverse members 29,30 (Fig. 4) extending between and interconnecting the seat base and the back support and also disposed forward a rear edge of the seat cushion and extending between a rear section of the horizontal portions of the leg members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the nesting chair of Meek et al. such that the seat base has a pair of transverse members extending between and interconnecting the first and second leg members at the rear section of each horizontal portion and connected to the first end of the back support bracket, a seat cushion supported by the seat base, a seat back connected to the second end of the back support bracket wherein the pair of transverse members are disposed forward a rear edge of the seat cushion, such as the nesting chair disclosed in Barecki et al. One would have been motivated to make such a modification in view of the suggestion in Barecki et al. that the seat cushion and seat back provide upholstered support to the user and the pair of

Art Unit: 3636

transverse members provides a rotatable seat cushion to allow others to pass when the chairs are situated in rows.

4. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meek et al. in view of Barecki et al. as applied to claims 1-5, 7-15, and 17-19 above, and further in view of Prior Art of the Instant Application.

Meek et al., as modified, disclose a nesting chair that is basically the same as that recited in claims 6 and 16 except that the back support bracket lacks sufficient flexibility, as recited in the claims. Prior Art of the Instant Application shows a nesting chair similar to that of Meek et al. wherein the back support bracket 18 (Fig. 1) is sufficiently flexible that the seat back 20 (Fig. 1) may flex with respect to the seat cushion 12 (Fig. 1) when leaned on. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the nesting chair of Meek et al. such that back support bracket is sufficiently flexible that the seat back may flex with respect to the seat cushion when leaned on, such as the nesting chair disclosed in the Prior Art of the Instant Application. One would have been motivated to make such a modification in view of the suggestion in the instant application that it is well known in the art that a back support bracket with sufficient flexibility allows a seat back to flex when leaned on.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3636

The following patents are cited to further show the state of the art with respect to nesting chairs:

U.S. Pat. No. 2,134,639 to McGowen U.S. Pat. No. 2,640,527 to Kreizelman


U.S. Pat. No. 2,961,037 to Keefer U.S. Pat. No. 3,159,428 to Schier

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

2168.

JE
July 21, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600